



**Montana Legislative Services Division**  
**Legal Services Office**

TO: Legislative Finance Committee

FROM: Julie Johnson, Legal Services Office

RE: Update on Montana Public Employees' Retirement System (PERS) Litigation and Settlement

In March, Judge Reynolds issued a permanent injunction in Association of Montana Retired Public Employees v. State of Montana. The injunction prevents the State from reducing the Guaranteed Annual Benefit Adjustment, or GABA, from 3 percent to 1.5 percent for state retirees as required under Section 5 of House Bill No. 454 from the 2013 Session. In his decision, Judge Reynolds concluded that reducing the GABA "constitutes a substantial impairment of retired public employees' contract rights" and that this substantial impairment "is in violation of the contract clause of both the Montana and U.S. Constitutions."

Both sides appealed the decision to the Montana Supreme Court (Case No. DA 15-0140). However, prior to submitting their appellate briefs, the parties reached a stipulation, which was filed with the Supreme Court on July 21. The stipulation provides that:

- the parties dismiss their appeals
- Reynolds' order granting a permanent injunction shall remain in effect and is limited to the constitutionality of the portion of HB 454 that reduced the GABA from 3 to 1.5 percent
- Reynolds' order would not have the effect of collateral estoppel, that is, the order does not set precedent for any litigation regarding any prospective changes to PERS
- the District Court should clarify that the scope of its order is limited to those employees employed prior to July 1, 2013
- each party bears its own costs and fees

The Supreme Court issued an order on July 23, 2015, incorporating the terms of the Stipulation and dismissing the appeals.